

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2020

CORAM

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.NO.2378 OF 2019

AND

CMP.NO.10857 OF 2019

The Management rep. By its  
Sakthi Coffee Estates (P) Ltd.,  
Valparai - 642 105,  
Coimbatore District.

... Appellant/Respondent

vs

1. Sagaya Mary
2. Arokiya Mary
3. Francis Sowriyar
4. Pushpananathan
5. Arulayee

... Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act 1925, against the judgment and decree passed in E.C.No.85 of 2015, dated 03.01.2019 (received on 09.03.2019), on the file of the Commissioner of Workmen's compensation/Deputy Commissioner of Labour, Coimbatore.

For Appellant : Mr.A.Saravanan

For Respondents : Mr.R.Chandrasekaran - R1

Notice served - no appearance - R2, R3 and R4  
R5 - Died

JUDGMENT

This is an appeal filed under Section 30 of the Workmen's Compensation Act 1923 (for short 'the Act') against the order passed by the Commissioner for Workmen's Compensation (Deputy Labour Commissioner), Coimbatore in E.C.85 of 2015. The respondents have filed E.C.85 of 2015 claiming compensation of Rs. 4,06,640/- on the ground that the death of one Dhanuslaus occurred in the course of his employment with the appellant. As per the impugned order, the respondents were found to be entitled for a sum of Rs. 4,11,460/- as the compensation payable

in respect of the death of Dhanuslaus. The appellant has been made liable to pay the said compensation. Aggrieved by the order, the appellant has preferred this appeal.

2. According to 1st respondent, deceased Dhanuslaus was employed as a Coolie in the Estate of the Appellant. While on duty on 01 December 2014 at about 03.30 p.m. deceased Dhanuslaus felt chest pain and fell down, and breathed his last on his way to the hospital. It was alleged that at the time when he fell down due to chest pain, he was clearing weeds from the coffee estate. On post-mortem, cause of death was found to be Myocardial Infarction. Alleging that the deceased has died as a result of an accident arising out of and in the course of his employment with the appellant, the 1st respondent has claimed compensation from the appellant, as employer to the extent of Rs. 4,06,640/-

3. The Appellant as the 1st opposite party deposed that deceased Dhanuslaus was not an employee employed by them and that the appellant denied that he died while on duty. However, the appellant contested the case on the ground that the cause of death of the deceased was heart-failure which had absolutely no causal connection with the work the said Dhanuslaus was doing at the time of his death. It was contended that the death was on account of natural causes unconnected with his employment and therefore the death was not on account of any accident arising out of his employment. Accordingly, liability for payment of compensation was denied by the appellant. Further, there was no relationship between the appellant and the employer/deceased.

4. On behalf of respondents - applicants in E.C., three witnesses were examined viz., P.W.1 to P.W.3 and eight documents were marked as Exts. A1 to A5. On the side of the appellant (respondent in E.C.) two witnesses were examined and two documents were adduced as Exts.R1 & R2. On the basis of the evidence available on record, the Commissioner of Workmen Compensation that Dhanuslaus died on account of an accident arising out of and in the course of employment with the appellant and directed the appellant to pay compensation amounting to Rs.4,11,460/-

5. The two questions raised in the memorandum of appeal as substantial questions of law arising for consideration in the case are thus:

(i) Whether, in the facts and the circumstances of the case, the Commissioner of Workmen Compensation was right in holding that the death of Dhanuslaus by Myocardial Infarction due to heart-failure can be said to be on account of an accident arising out of and in the course of employment?

(ii) Whether in the absence of evidence to show that the

work of the deceased Dhanuslaus and his death due to heart-failure did not have any causal connection, his death can be held to be arising out of and in the course of his employment? As is evident from the questions formulated, the main question to be considered is whether deceased Dhanuslaus who was denied as a worker employed by the appellant has died as a result of an accident arising out of and in the course of his employment as a Coolie under the appellant?

6. Though in the memorandum of appeal, the appellant has proceeded on the basis that as opposite party he has disputed the claim of the respondents that the deceased Dhanuslaus was not employed with the appellant and the death of Dhanuslaus was not on account of any accident arising out of and in the course of his employment, the objection filed and the evidence given by the appellant would indicate that the deceased Dhanuslaus was not worked with the appellant and there is no proof to show that the said deceased Dhanuslaus was employed in the said Estate. In fact, examined as D.W.1, the appellant has denied and at the relevant time Dhanuslaus was not an employee of the Estate and he was no way connected with the said Estate. As such, there can be a dispute about the fact that Dhanuslaus died in the course of his employment. In the light of the post-mortem certificate, marked as Ex.A2, there cannot be any serious dispute about the cause of death also. It was as a result of heart attack that Dhanuslaus died on 01.12.2014. In the circumstances the only question to be considered is whether the deceased Dhanuslaus was the employee of the appellant and whether the death of Dhanuslaus on 01.12.2014 while he was in the course of his employment was on account of an accident arising out of his employment?

7. The main contention put forward by the appellant as already indicated is that death of Dhanuslaus was only a natural death resulting from Myocardial Infarction having no connection with the work that he was no way connected with the Estate and there is no proof to show that the deceased was working with the appellant. The appellant have produced his workers attendance register as Ex.R1 and the workers Register as Ex.R2. But there is no name of the deceased in the attendance register and the workers register as mentioned by the appellant. Therefore, the deceased neither worker not contract worker in the appellant estate. The learned Commissioner, without considering the facts, passed an award of Rs.4,11,460/- as compensation is unfair. On the above basis, it was contended that there is no causal connection between the death and the employment he was not having with the appellant. Since the causal connection between the death and the employment is not established, the appellant cannot be made liable for compensation for the death of the deceased, was the submission made by the learned counsel for the

appellant.

8. The learned counsel for the respondents would submit that one Sagayamary, W/o. Late. Dhanuslaus deposed that the deceased was temporarily employed as a Coolie with the appellant. While on duty on 01 December 2014 at about 03.30 p.m. deceased Dhanuslaus felt chest pain and fell down, and breathed his last on his way to the hospital. P.W.2, who is a brother of the deceased, deposed that due to giddiness, the deceased Dhanuslaus, fell down at Sakthi Estate and he was taken to Valparai Government Hospital after giving first aid at Sakthi Estate Hospital. On the way to Hospital, he died. The Doctor has clearly deposed that "the deceased would appear to have died of Myocardial Infarction". The respondents have clearly established that the deceased Dhanuslaus was employed with the appellant and he died on the course of his employment. Therefore, the learned counsel prays to dismiss the appeal.

9. Heard the learned counsel for the appellant as well as the learned counsel for the respondents and perused the materials available on record.

10. Pleadings and the evidence in the case would clearly establish that admittedly, Dhanuslaus, at the time when he fell down in the estate was doing work in discharge of his duties as a Coolie employed by the appellant. It is also an admitted fact that on his way to the hospital, he died on 01.112.2014 itself. The postmortem certificate would shows the cause of death as Myocardial Infarction resulting from heart attack. These facts and circumstances, either admitted or proved by the oral and documentary evidence in the case, would in our view, clearly establish that but for the strain due to the work he was doing the unexpected death would not have occurred. In the circumstances, it will only be reasonable to conclude that the strain even if it was a normal strain connected with the employment was the reason for the death. Even proceeding on the basis that Dhanuslaus was suffering from chest ailment and was prone to heart attack, the circumstances in the case would clearly indicate that the strain due to the work he was doing was the cause which accelerated his death due to heart attack. The maintenance of attendance register is a mandatory procedure for all the workers in the estate. The statement that he was working as a temporary coolie cannot be accepted. Other than a statement that the witnesses are also his relatives and the management had stated only not of sympathy, they had given first aid in their hospital situated at Estate, which would show that he was an employee. Otherwise no outsiders will be allowed to enter the estate. No contra evidence produced by the Management. As such, in my view, the circumstances established in this case

are sufficient to establish the required causal connection between the death and the employment.

11. As such, this Court do not find any ground to admit this appeal and there is no merit in the Appeal. The appeal is liable to be dismissed. Accordingly, the Civil Miscellaneous Appeal is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Commissioner of Workmen's compensation/  
Deputy Commissioner of Labour,  
Coimbatore.

+1cc to Mr.A.Saravanan, Advocate, S.R.No.15563

+1cc to Mr.R.Chandrasekaran, Advocate, S.R.No.15343

C.M.A.No.2378 of 2019  
and  
CMP.No.10857 of 2019

GMR (CO)  
KKV/20/07/2020

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